

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6681**

**BILL NUMBER:** SB 246

**NOTE PREPARED:** Dec 16, 2003

**BILL AMENDED:**

**SUBJECT:** Life Imprisonment for Repeat Sex Offenders.

**FIRST AUTHOR:** Sen. Waterman

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. It allows the state to seek a sentence of life imprisonment without parole for an offender who: (1) commits a Class A felony or Class B felony constituting a sex offense against a child; and (2) has a prior Class A felony or Class B felony conviction of a sex offense against a child.
- B. It specifies that a person serving a sentence of life imprisonment without parole does not earn credit time.

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:** Since this bill would be an option for prosecuting attorneys and not mandatory, any need for new beds costs associated with this bill will depend on

- the frequency that the prosecuting attorneys will seek this sentence enhancement;
- the number of offenders who have been sentenced for repeat Class A or B sexual offenses against children;
- the number of cases that are successfully prosecuted; and
- the length of the sentence.

***The following analysis estimates that the added number of beds needed due to this bill would not begin until 2015 and would increase each year until 2046 when offenders who have been given a lifetime sentence will begin to die. By 2046, the number of new beds that would be needed would likely be 760.***

***Background:*** Under current law (IC 35-50-2-14) the state may seek to have a person sentenced as a repeat sexual offender for a sex offense by alleging that the defendant has accumulated one prior sex offense. These offenses include Class A or B felonies constituting sexual offense against children. If the court determines

that the person is a repeat sex offender, the court may sentence a person to an additional fixed term that is the lesser of the presumptive sentence for the underlying offense or ten years. (The presumptive sentence for Class A felonies is 30 years and the presumptive sentence for a Class B felony is 10 years.)

As proposed, the prosecuting attorney may seek a sentence of life without parole against a person convicted of a Class A or B felony involving a sex offense against a child who has a prior conviction for a Class A or B felony involving a sex offense against a child.

To estimate the future number of beds needed, these factors were used based on information from the Department of Correction (DOC):

- the average age of a sex offender at time of conviction (38 years of age).
- the estimated percentage of repeat sex offenders (10%).

The following table shows the number of offenders who have been sentenced to DOC for Class A or B felonies involving sexual offenses against children.

<b>Commitments to DOC by Fiscal Year for Class A and B Sex Felonies Against Children</b>									
	1996	1997	1998	1999	2000	2001	2002	2003	5-Year Avg.
Child Molesting	6	12	31	53	96	79	87	96	82
<i>Total Class A Felonies</i>	<i>6</i>	<i>12</i>	<i>31</i>	<i>53</i>	<i>96</i>	<i>79</i>	<i>87</i>	<i>96</i>	<i>82</i>
Child Molesting	129	116	78	89	137	145	153	170	139
Incest	0	8	5	7	9	5	6	4	6
Sexual Misconduct with Minor	0	6	24	38	51	62	73	87	62
Vicarious Sexual Gratification	15	0	11	1	1	2	-	-	1
<i>Total Class B Felonies</i>	<i>144</i>	<i>130</i>	<i>118</i>	<i>135</i>	<i>198</i>	<i>214</i>	<i>232</i>	<i>261</i>	<i>208</i>
<b>Total Offenses</b>	<b>150</b>	<b>142</b>	<b>149</b>	<b>188</b>	<b>294</b>	<b>293</b>	<b>319</b>	<b>357</b>	<b>290</b>

The following table illustrates the number of years that a twice sentenced child sex offender would receive under current law and the extended number of years that offenders would remain in prison under a life sentence.

<b>Expected Sentence and Release Date Under Current Law and Proposed Life Sentence</b>											
Offense	Under Current Law				Projected Costs Associated with Proposed Life Sentence						
	Presumptive	Maximum Enhancement	Total Years	Fewest Projected Years in Prison(1)	Year of Sentencing	Earliest Possible Release Year	Year Of Death	Age At Sentencing	Date at Release	Expected Lifespan in Prison	Added Time In Prison
Class A	30	10	40	20	2004	2024	2046	38	58	80	22
Class B	10	10	20	10	2004	2014	2046	38	48	80	32

Notes: (1) Assumes offenders receive only credit time for good conduct and none for education

The average expenditure to house an adult offender was \$26,825 in FY 2002. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** Before a sentence of life without parole is pronounced, the court will be required to conduct a hearing to consider the facts and circumstances relevant to sentencing. The defendant is entitled to subpoena and call witnesses and present information in his or her own behalf. The court shall make a record of the hearing, including: (1) a transcript of the hearing; (2) a copy of the presentence report; and (3) if the court finds aggravating circumstances or mitigating circumstances, a statement of the court's reasons for selecting the sentence that it imposes.

The county will incur added costs for this additional hearing including legal counsel for the defendant if the defendant is indigent, costs of security, and any added costs of investigating the defendant's background. If the accused person is sentenced to life without parole and appeals the decision, the county will be required to pay the costs for any legal counsel and investigations associated with the direct appeal.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction

**Local Agencies Affected:** Trial Courts; Prosecuting Attorney

**Information Sources:** Department of Correction

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